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May 28, 2008

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TOWN OF NEW WINDSOR

PLANNING BOARD

MAY 28, 2008

MEMBERS PRESENT: JERRY ARGENIO, CHAIRMAN
NEIL SCHLESINGER
HENRY VAN LEEUWEN
DANIEL GALLAGHER
HENRY SCHEIBLE

ALSO PRESENT: MARK EDSALL, P.E.
PLANNING BOARD ENGINEER

MICHAEL BABCOCK
BUILDING INSPECTOR

ADAM RODD, ESQ.
PLANNING BOARD ATTORNEY

ABSENT: HOWARD BROWN

MYRA MASON
PLANNING BOARD SECRETARY

REGULAR_MEETING

MR. ARGENIO: I'd like to call to order the May 28, 2008 meeting of the New Windsor Planning Board. Please stand for the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance was recited.)

APPROVAL_OF_MINUTES_DATED_FEBRUARY_27,_2008_AND_MARCH_
12,_2008

MR. ARGENIO: Approval of the minutes dated February 27, 2008 and March 12, 2008. If somebody sees fit, I'll accept a motion that we accept them as written unless somebody wants to make a change.

MR. VAN LEEUWEN: So moved.

MR. SCHEIBLE: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board accept those minutes. Roll call.

ROLL CALL

MR. SCHEIBLE	AYE
MR. SCHLESINGER	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

ANNUAL_MOBILE_HOME_PARK_REVIEW:

UNION_AVENUE_MOBILE_HOME_PARK

MR. ARGENIO: Union Avenue Mobile Home Park. Is somebody here to represent this? Would you please come forward, sir, and give your name for the benefit of the stenographer?

MR. GARRISON: Richard Garrison.

MR. ARGENIO: Michael, has somebody from your office been out there to take a look around? If so, what did they find?

MR. BABCOCK: We did and everything's fine, Mr. Chairman. We need a check for \$100.

MR. GARRISON: It's JHC.

MR. BABCOCK: Nobody knows that it got sold, nobody knows there's a name change except for me so we'll put on the agenda formally so everybody will know.

MR. ARGENIO: Collect the rents, you're all right with that. Do you have a check?

MR. GARRISON: Yes.

MR. ARGENIO: If anybody sees fit I'll accept a motion for a one year extension.

MR. VAN LEEUWEN: So moved.

MR. SCHEIBLE: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board offer one year extension to the JHC Mobile Home Park. If there's no further discussion from the board members, roll call.

May 28, 2008

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ROLL CALL

MR. SCHEIBLE	AYE
MR. SCHLESINGER	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

ZBA_REFERRAL:

HIGHVIEW_ESTATES_SUBDIVISION_(99-14)

MR. ARGENIO: ZBA referral Highview Estates.

Mr. Joseph Foti appeared before the board for this proposal.

MR. ARGENIO: This application proposes subdivision, this is Angelo Estates, is that correct, is that right, Mark?

MR. EDSALL: Yes, Angelo, Highview.

MR. ARGENIO: This application proposes subdivision of the 4.4 acre total property into three single family residential lots. The plan was reviewed on a concept basis only. And again for the benefit of the members this is, they're looking for a zoning board referral, this is non-conforming. Sir, Mr. Foti, tell us what you're trying to do here or what you're desirous of doing please.

MR. FOTI: Okay, what we'd like to do is there are two existing tax lots here, one of them is owned by Angelo Romeo and the other is owned by Highview Estates, lot number 1 shown on the map would be tax lot owned by Angelo Romeo and lots 2 and 3 are the other tax lot owned by Highview Estates. What we would like to do is subdivide the second tax lot that's owned by Highview Estates.

MR. ARGENIO: Lot 2?

MR. FOTI: It's lots 2 and 3 shown on the map.

MR. ARGENIO: You're creating a lot line north 8 degrees 5 minutes 12 seconds, is that the lot line you want to create?

MR. FOTI: Yeah, but the lot line actually goes through the space, I'll show you.

MR. ARGENIO: I see it.

MR. FOTI: It actually runs right through here as part of a private road and lot number 2 will be one side of the private road, lot number 3 will be the other side and there will be a cul-de-sac.

MR. ARGENIO: Go ahead, I see that.

MR. FOTI: And this was originally proposed when the R-1 zone had one acre requirement for area. The lots 2 and 3 require, excuse me, lots 2 and 3 require variances for lot area for gross lot area, none of the lots require a variance for net lot area. Lot number 1 has an existing house on it that will require a side yard variance as well as lot width variance and the side that the variance is required on for lot number 1 is the parcel boundary, the house was built under the old zoning.

MR. ARGENIO: Mark, what's the story with this new lot line running down the edge of the private road then bisecting the cul-de-sac, is that permissible? Typically we see a bit of a different configuration than that for private roads, do we not?

MR. EDSALL: Normally all lots served by the private road have a reasonably equal share of ownership of the private road.

MR. ARGENIO: Typically it goes out to the middle of the private road.

MR. EDSALL: This one's different because lot 1 and Joe correct me if I'm wrong lot 1 proposed lot 1 is the lot that has the existing residence, they have an existing

driveway out to Shaw, they're not proposing to use the private road.

MR. FOTI: Correct.

MR. EDSALL: So they have no ownership of any portion of the private road the way it's proposed.

MR. ARGENIO: So the private road is necessary for lot 2 and 3 only?

MR. EDSALL: Correct.

MR. ARGENIO: Well, getting back to my original question, well, I guess I answered my own question, lot 1 is not included in that usership then, lot 2 extends into the private road as does lot 3.

MR. EDSALL: Correct.

MR. VAN LEEUWEN: Would have been easier if you showed the house on that lot number 1.

MR. EDSALL: It's on the second sheet.

MR. ARGENIO: Any of the other members have a question just chime in? I've got a couple things I'd like to hit.

MR. GALLAGHER: The private road's not presently there, is it?

MR. FOTI: No.

MR. SCHLESINGER: What's the purpose?

MR. BABCOCK: Lot frontage.

MR. SCHLESINGER: Why not two driveways?

MR. ARGENIO: You'd shut off lot 3.

MR. BABCOCK: Fifty-five feet of road frontage and it's required to be--

MR. EDSALL: Seventy, I think.

MR. SCHLESINGER: All right.

MR. ARGENIO: I want to read Mark's comment number 2 and have you elaborate on it a bit. The application indicates parcel a single lot number 42 with a, what does that mean, Mark, number 42?

MR. EDSALL: It's on the application calls it 42.

MR. ARGENIO: The whole thing?

MR. EDSALL: It's saying that it's lot 42 whereas the plan shows 42.1 and 42.2.

MR. ARGENIO: Plan indicates the lot is currently, the two lots as noted above as Mark just said 42.1 and 42.2 this must be corrected immediately and prior to ZBA referral noted below if there's no previous approval to create these two lots on the plan it's still legally a single lot. Can you comment on that?

MR. FOTI: I cannot cause I don't know how they were created.

MR. EDSALL: Is there something you can tell us about that?

MR. BIAGINI: They have been two separate lots for about six years back in actually this dates back to 1999 I believe we were doing a three lot subdivision and we sold the house to Angelo Romeo and with the stipulation in his contract that when we did the subdivision he would sign all pertinent applications.

MR. ARGENIO: Listen carefully, this is important.

MR. BIAGINI: And so we explained to him that we would be selling him a house on one acre which was the zoning at the time. His contract called for him getting one acre. When we deeded the property to him we deeded him the entire 4 acre parcel, we took back a deed held in escrow for 3 acres. Somewhere back in like 2001 he rescinded, he got into an argument with us, he rescinded, he came and told Myra he was rescinding his signature on the application and that's when we got our attorneys involved and I took the deed that was held in escrow and I filed it.

MR. ARGENIO: Which was one or two lots? One lot?

MR. BIAGINI: The 42.2.

MR. ARGENIO: One lot?

MR. BIAGINI: The 3 acres.

MR. EDSALL: It would be 42.1 on the plan.

MR. BIAGINI: Is that what it is?

MR. EDSALL: Yeah.

MR. BIAGINI: And if the--

MR. FOTI: It's 42.1.

MR. BIAGINI: And then we came back in and I attempted to subdivide it by myself without him and Andy Krieger had said that we couldn't do it because it was an illegal subdivision, we'd have to get them to come in and sign the application, well after five or six years of our lawyers going back and forth finally signed the application.

MR. ARGENIO: So you guys are playing nice now?

MR. BIAGINI: Exactly.

MR. ARGENIO: Which still puts us back in the problem that we're looking at this as one lot, is that right?

MR. EDSALL: I think the issue being is that they're here now to correct what's occurred and I think they have acknowledged was not necessarily done the right way, they effectively subdivided by deed, the town told them that you cannot legally subdivide by deed, the Town Code says that's illegal, they're here to fix that which I just wanted to understand because I was starting to believe that I didn't understand what happened. The bottom line they have two tax lots but from this planning board's standpoint you have approved nothing to date.

MR. ARGENIO: They have one lot as far as this planning board's concerned?

MR. EDSALL: You're basically approving a 3 lot subdivision of a single parcel notwithstanding what the tax map department might have done.

MR. VAN LEEUWEN: Otherwise he's here trying to rectify the problem.

MR. EDSALL: I'm not saying he's not being cooperative but we have to make the record clear that you're approving a 3 lot subdivision from one lot.

MR. ARGENIO: Neil, I think you were here probably for this, you may or may not have been, it goes back quite a bit. This was done in good faith by Mr. Biagini quite a few years ago when the zoning was whatever it was it wasn't two acres and then there was this whole mess that Ed got tangled up in which is not our

problem, it's his problem and he seemed to have gone to whatever lengths he needs to go to to get this thing remedied, so just to give you guys a little bit of history on it, that's the story with it.

MR. EDSALL: Mr. Chairman, my reason for the clarification I would hate to have Ed go through and get a 2 lot subdivision approved and have someone down the road say that the third lot was never approved by this board so I think it's important that you give approval to the whole thing.

MR. ARGENIO: Well, Mark, that's why I probed it. Now I want to clear something else up. The record should reflect that Dominic is not here tonight, Adam Rodd is here, certainly an equally talented attorney from the firm Drake Loeb. I understand that there was an issue with the proxy. Adam, can you speak to that and that's the proxy that allows Mr. Biagini to represent this application in front of this board on behalf of Angelo Estates, whoever the owner of that may be? Go ahead, Adam.

MR. RODD: Yeah, it was submitted by Steve Reineke of Levinson Reineke Law Office, an affidavit which is notarized, signed by Angelo and Amy Romeo which gives full authorization to the present applicant to seek the subdivision relief before the planning board. So it is an adequate proxy and it does legally enable Mr. Biagini to speak on this subdivision.

MR. ARGENIO: So you're comfortable with the fitness of that document?

MR. RODD: Yeah, the document is sufficient.

MR. ARGENIO: Do you guys have any questions? I tried to back up a little bit to cover all the ground so everybody would be as informed as they could be including the new members.

MR. SCHEIBLE: Just curious, let me, if you can reiterate that this whole thing originally since I wasn't around at the time this whole thing originally came in as a 2 lot subdivision, yes or no?

MR. FOTI: No.

MR. BABCOCK: Always proposed as a 3 lot.

MR. SCHEIBLE: But this was--

MR. BABCOCK: He got a building permit on one big lot and he started building the house and proposed a subdivision for three lots, got a buyer for the house, didn't know that was going to happen, made the deal with the buyer to sell him one acre and the house, the rest reverts back to him and then it all went bad and now the deeds got filed in Goshen right now there's three lots.

MR. EDSALL: Two lots.

MR. BABCOCK: Two lots, I'm sorry, there's lot 1 and lot 2 and 3, I'm sorry.

MR. ARGENIO: Not approved, that's what we're trying to clean up, not approved by this board.

MR. SCHEIBLE: We're going minus on our lot size here.

MR. ARGENIO: We're referring to the zoning, Henry, we're not going to make the decision.

MR. SCHEIBLE: That's a request on the lot size.

MR. ARGENIO: From 80,000 square feet to 52 and change more and less, yes, you have a good grip, that's the story. Were you here for this?

MR. SCHLESINGER: I remember very, very vaguely it was a mess then and it's a mess now.

MR. ARGENIO: I don't think it's a mess now and I say that because Mr. Biagini does have a fit proxy to represent the owner. Mark is on board with it. He's reviewed it, it complies with what we need to do with the exception of the lot area, obviously, and we're moving towards--

MR. SCHLESINGER: We're not doing anything other than referring to the ZBA, that's it.

MR. ARGENIO: Danny?

MR. GALLAGHER: I'm caught up now, yes.

MR. ARGENIO: One thing I want to just advise you of Mr. Biagini and I'm sure you've heard my speech before on this, this is in the west end of the town and percs are a huge issue with the town and we'll insist that Mark's office witness the perc tests because it's a big issue out there, big issue. Was the problem, not my business, was your problem with the other owner was it a perc or septic?

MR. BIAGINI: No, actually the problem was he wanted to own four acres.

MR. ARGENIO: Changed the rules, okay. He thought he had him.

MR. BIAGINI: That's why I filed the dead.

MR. ARGENIO: It is what it is. I want to make sure that you're on top of that. Just want to read one other thing into the minutes. Mark has a note here, this is kind of a new thing that Mark and I talked about that he's going to do in order to make sure these private roads are covered for the town highway super

and the town this note needs to be included on the plans, Mr. Foti. This subdivision contains a private road which the Town of New Windsor has no responsibility to maintain, provide services for nor make any improvements to, all such costs shall be borne by the property owner, using said road in accordance with the terms of the maintenance declaration agreement or agreement. Are you okay with that note?

MR. FOTI: No problem.

MR. ARGENIO: If anybody sees fit, I'll accept a motion we declare this application incomplete at this time.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that this application be declared incomplete at this time thus referring to the Town of New Windsor Zoning Board. Roll call.

ROLL CALL

MR. SCHEIBLE	AYE
MR. SCHLESINGER	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: One final thing, note to self, the fees you're going to pay rec or otherwise are for three lots, not two.

MR. BIAGINI: That's fine.

REGULAR_ITEMS:

WVR_REAL_ESTATE_II,_LLC_-_SITE_PLAN_AMENDMENT_AND_

SPECIAL_PERMIT_(08-03)

MR. ARGENIO: This application proposes conversion of the former video store at the southerly corner of the site to an auto repair facility, prior application number 98-15, you guys get it, 98 is the year, 15 is the number. A previous review of the plans was prepared on 27 February, 2008, although no meeting appearances occurred. I understand Mr. Rosenberg is representing this and his engineer was still dancing a bit on the final plans and maybe he was dancing as a tenant, whatever it was I don't care, he's here now. I want to say for the benefit of the board members and the record that I had dinner with Mr. Rosenberg tonight, my firm, and we had a nice meal, we ate at Neil's restaurant, the Town Supervisor is very emphatic with all the board members and department heads about ethics. As such, I make the following disclosure. We had a nice meal tonight and our relationship existed long before this. My grandfather and my uncle and my father did a lot of construction work for the Rosenberg family, be that Mr. Rosenberg who's Jeff's grandfather or Dick Rosenberg who's Jeff's dad who was the founding, one of the founding partners of Woodbury Commons as some of you may or may not know, so my family has done a lot of work with the Rosenbergs over the years, we did the rehab of the Big V Plaza back in '96, Jeff?

MR. ROSENBERG: '98.

MR. ARGENIO: '98 for the Rosenberg family and Jeff and I we know each other a long time and he called me today to say hey, I'll be in Newburgh for the meeting tonight, do you want to take a few moments and have begin dinner before the meeting? I said that would be

great and at that dinner we did not discuss this application at all and I paid for the meal. Adam, how's that for disclosure?

MR. RODD: Very good, comprehensive.

MR. ARGENIO: Thanks for the compliment. Jeff, tell us what you're doing here. I'm going to abstain from voting, I don't think I need to, I don't think I need to but I will abstain from voting on this. But I will not abstain or refrain from comment and discussion cause this application as goes back many years and nobody in this room knows more about this particular use of this particular facility than me with the exception of possibly Mark Edsall who predates everybody, he's afraid to admit that he's getting old. Pretty soon he'll be as old as Paul Cuomo. I can see that coming soon. Go ahead, Jeff.

MR. ROSENBERG: This started back in 2002 when Mavis came to us, it's an empty building originally built for Hollywood Video, they went Chapter 11. At this point in time, Mavis came back to us, I don't know if you all remember but Mavis Tire was a tenant in the shopping center back in the '60s, 70s.

MR. VAN LEEUWEN: When you're grandfather first built the--

MR. ROSENBERG: Yes, they moved out in the mid '80s when we moved the supermarket down.

MR. ARGENIO: Henry Scheible bought his tires for his first Packard there.

MR. SCHEIBLE: I did a lot of business with Shop Rite so I have to abstain?

MR. VAN LEEUWEN: I knew his grandfather and grandmother, I should abstain too.

MR. ROSENBERG: We're not going to have a good vote here. Mavis came back to us in 2002 after leaving the center in '87 and we had this empty building, we came in front of the planning board then Hollywood Video decided they'd take the space after paying us to not take the space they came back and it was an easy use for them to take the space. They since went out of business again so Mavis has come back to us again and said we still like the space, we have always liked Vails Gate, we want to be back there, we resurrected the file, we've got changes on here that were requested in 2002 and then Mark has requested additional changes from now so we're here today, Mavis since then has changed sort of their style, I'll give you a little look as to what the building will sort of look like.

MR. ARGENIO: There is a shelf on the bottom, Jeff.

MR. ROSENBERG: So obviously they haven't gone in for any sign approvals yet so, you know, they're, this is their sort of rendering of what the building is going to look like, the doors which are on the front which faces 32 are reflective, you know, non-see-through glass doors to prevent folks from seeing in, the doors as part of our lease doors need to be closed all the time. No cars can be parked overnight. Cars can only be worked on inside the building. They can't have tires outside, I mean, it's, they're going to run a very clean operation and they have run, I mean, they run very nice clean tire stores.

MR. ARGENIO: Mr. Rosenberg, what do you anticipate possibly would be stored outside in front of the building in plain sight of Route 32?

MR. ROSENBERG: They do, sometimes they have those tires shown, you know.

MR. VAN LEEUWEN: Piles of tires outside.

MR. ROSENBERG: Like display tire or something, I don't know.

MR. ARGENIO: Here's what I have to say about that, Jeff, I was going to ask you about working on cars outside, I was going to ask you about the doors being opened but you covered that. I'm going to say this to you, you have a tenant, you can't speak to every nut, bolt and level of minutia that we may or may not want to get into relative to your tenant, but I will say this to you and I will look for the support of the other board members on this, what they do store outside should be relatively limited, I mean, I would think that unless somebody chimes in and disagrees with me if they had a rack that had eight tires on it and in the morning they pulled it out and put it next to the garage door, I wouldn't imagine that was a problem, if they had a rack they rolled out with antifreeze or window washer.

MR. VAN LEEUWEN: It has to do with their business.

MR. ARGENIO: But conceptually and attractively I don't want it to look, we don't want it to look like a service center because that's the wrong corridor for that type of thing and they did have an approval for this Bila Family Partnership back when as Jeff had mentioned they were in here way prior to this, they had approval to do just this with that tenant but either the tenant bailed out or Jeff raised the rent or some such thing.

MR. ROSENBERG: Actually, we had approval and Hollywood Video came back and said we'll take the space as is and so from my point of view that was a no-brainer cause they moved in the next month and they got a six or eight month buildout on the space, Mavis needs to spend \$500,000 on the space, which is more than the building costs to put up so, you know, they have to spend a lot

of money.

MR. ARGENIO: I saw that building get put up, it certainly wasn't \$500,000.

MR. ROSENBERG: Thanks.

MR. EDSALL: I'd just like to point out to the board's attention to the note that has been added, it's right underneath the building area table, tire service center notes that Mr. Rosenberg put in here as offered as a restriction because they recognize that the area is such that it would not be aesthetically pleasing and advantageous to have a vehicle repair, normal vehicle repair with cars outside half torn apart sitting right front row on this site.

MR. ARGENIO: Johnny's Towing can't go in there five years from now.

MR. EDSALL: Because it's a special permit use and they're applying their application to a specific use, they have offered notes one and two that says that you are not approving a service repair garage, you're approving a tire retail center, so it's very specific and I think it's advantageous to both the Town of New Windsor and the applicant to control it and they have offered that.

MR. ARGENIO: I will turn it over to the members, if anybody has any questions on this.

MR. SCHEIBLE: I just want to bring up when you were just discussing about the aesthetics, what the place is going to look like and I have seen a lot of tire places look pretty crummy on the outside and I just don't want to see it happening here in this location because it just does not conform with this location that we're talking about here and question was brought up too Mark just said about repair center, are we just going to be

changing tires, are we just going to be selling tires?

MR. ROSENBERG: They do other minimal things.

MR. SCHEIBLE: Front alignment or something like that?

MR. ROSENBERG: Yeah.

MR. SCHEIBLE: That's not too bad.

MR. ARGENIO: Better than the note on the plan. Just want to point out the obvious to everybody and this is again it predates everybody here except for maybe Neil, the Rosenberg family has been good neighbors to this town, that facility was Mr. Rosenberg's second store and the assurances that they gave this board back in 2002 pretty much they have kept. If you drive by that facility at any given time the front lawn and the sidewalks have snow blowers on them, the lawn is cut, it's always neat and tidy. So as I said, the note is nice but everybody should understand at least I know I understand that we're dealing with decent people who are desirous of being good neighbors.

MR. SCHEIBLE: This is just for my benefit, this is a lease situation?

MR. ROSENBERG: Yeah, we own the building. Now, the other interesting caveat to this is that K-Mart had a very strong restriction against this and so the last four months have been negotiating with K-Mart because they I guess with Sears or whatever they carry tires. So they were, they finally relented but in relenting they asked for the possibility of a, they may come in front of you for a walk-up pharmacy, they want to put a walk-up pharmacy in the front wherever their pharmacy is in the front.

MR. ARGENIO: Tell them to come visit us.

MR. ROSENBERG: They know they have to come visit you.

MR. ARGENIO: Life is a negotiation, is it not?

MR. ROSENBERG: It is.

MR. BABCOCK: We do have Mr. Rosenberg's telephone number, we can invite him back here at any point.

MR. ROSENBERG: That's right.

MR. ARGENIO: As a special use permit it has to be renewed.

MR. ROSENBERG: It has to be renewed annually?

MR. BABCOCK: Only if you want it to be.

MR. ARGENIO: Mike is right, we have the right under special use permit, Jeff, if it were a lesser landlord, if there's issues we have a, we have the right to call them up and say hey, bud, this is not right, this is not what you told us you were going to do which we certainly wouldn't expect with you nice folks. Just let me cover there's one other thought that I had. Oh, Jeff, I would like as part of this I would like you to get somebody to repair the catch basin head behind the building which is broken and dangerous for pedestrians, it's the curb head, the curb head is broken behind the building at the entrance coming off Forge Hill Road.

MR. ROSENBERG: Behind this building?

MR. ARGENIO: Yes, can't miss it, come down from Forge Hill Road look to your right.

MR. ROSENBERG: Okay.

MR. ARGENIO: Can't miss it, it's a hazard. If you can do that, I'd appreciate that.

MR. SCHLESINGER: Question, I'm confused and I think Hank is also, speaking out of line, let me know.

MR. SCHEIBLE: Go right ahead.

MR. SCHLESINGER: Applicant is looking for approval of the proposed auto repair service sales, correct?

MR. BABCOCK: Correct.

MR. SCHLESINGER: Are they zoned appropriately for that?

MR. BABCOCK: Yes.

MR. SCHLESINGER: Okay, end of issue.

MR. ARGENIO: Mark, can you elaborate?

MR. EDSALL: It's a special permit use, it's permitted but you need to have a public hearing and you need to grant both site plan approval and a special permit.

MR. SCHLESINGER: They have had the public hearing?

MR. ARGENIO: No, we're going to have it.

MR. EDSALL: You have to authorize it.

MR. SCHLESINGER: The town has been strict about auto sales and auto repair so the applicant is here for a special use permit?

MR. ARGENIO: Correct.

MR. VAN LEEUWEN: But you've got to have a special hearing for that, Neil.

MR. SCHLESINGER: That's what I wanted to know.

MR. SCHEIBLE: Neil and I were conversing here, I asked that question earlier, we're going beyond a tire store, we're going beyond the tire store, I'll just start all over.

MR. ARGENIO: Again, which falls under the special use permit umbrella.

MR. BABCOCK: They need a motor vehicle license.

MR. SCHLESINGER: I understand all that but Mavis ten years down the road isn't there anymore and he sells it to Frank's Auto Repair.

MR. ARGENIO: We covered that, no, it's for this tenant only.

MR. SCHLESINGER: Okay, and that we can approve it on that basis?

MR. ARGENIO: Absolutely, it's part of record on this plan.

MR. SCHLESINGER: Okay.

MR. ARGENIO: Absolutely.

MR. BABCOCK: If you go to Advanced Auto now they'll come out and repair your car in the parking lot, they do, yeah, they'll come and put windshield wipers on it and a battery.

MR. SCHLESINGER: They're allowed to do that?

MR. BABCOCK: They'll put a battery, they'll even give you the tools, they'll rent you or loan you the tools to fix it.

MR. SCHLESINGER: This has a special use permit for

this tenant only, this tenant closes their door the special use permit is dead.

MR. ARGENIO: Yes.

MR. SCHEIBLE: So in doing this we're going to be changing oil?

MR. ARGENIO: Probably.

MR. SCHLESINGER: And sales also, can he put ten cars outside for sale?

MR. ROSENBERG: No, no, they can't sell cars.

MR. BABCOCK: You got to remember the zoning has areas that you can put something in that doesn't have just tire sales, the zoning says auto service repair garage and auto sales, that's the only place they fit but when you approve it you're approving it based on what he says and based on the plan.

MR. ARGENIO: Because of the special use permit.

MR. SCHLESINGER: Therefore, it's limited, in other words, not selling automobiles.

MR. EDSALL: No, that's a separate use.

MR. ARGENIO: This is not like Babcock Autos.

MR. BABCOCK: Sales is sales of tires.

MR. ARGENIO: Again, Mark, refresh my memory about the Mandelbaum application, Jeff graciously offered to do something for us, I don't know if it was the construction of the crossing or the design of the ped crossing or what it was but I want it covered and part of the record.

MR. EDSALL: The design and construction of the pedestrian crossing between the senior housing project and this overall complex Jeff has offered to undertake with the town being the applicant, so it would be a town application, Jeff will work with the town by having a design and the construction once it's approved.

MR. ARGENIO: Can we set that in motion?

MR. EDSALL: Absolutely.

MR. BABCOCK: Mandelbaum has agreed since he has the engineers.

MR. ARGENIO: It was--

MR. BABCOCK: He agreed to do the engineering.

MR. ARGENIO: Mandelbaum was doing the design and Rosenberg was going to do the construction.

MR. EDSALL: Next step is to get Mandelbaum to move forward with the design and the town make the application to the DOT.

MR. ARGENIO: Can you do that Mike?

MR. BABCOCK: Yes.

MR. ARGENIO: Reach out and give him a little bit of a push.

MR. ROSENBERG: Has that started?

MR. ARGENIO: They have approval but--

MR. EDSALL: They're waiting for state, Adam pointed out that note number one although it probably is near perfect isn't quite perfect that we need to be a little

more specific on the particular issue of tire sales and then the repair center being a little more specific so I'm going to work with Jeff to just straighten that out.

MR. ARGENIO: I'm not going to get twisted, that's your job and Cordisco's job.

MR. EDSALL: We'll be working on it.

MR. ROSENBERG: Anything that this has has to be approved by Mavis so anything you send to me I have to send to them.

MR. EDSALL: Just going to tweak it slightly.

MR. ARGENIO: You understand the gravity of what we're doing here?

MR. ROSENBERG: I understand again K-Mart has the same restrictions so I can't, you know, if Mavis sells, if the approval's for Mavis only the sale of auto tires and whatever else, you know, so--

MR. ARGENIO: Mark, work with Jeff please.

MR. EDSALL: We will.

MR. ARGENIO: Jeff, by law we're required to forward this to County Planning, that's a new reg.

MR. EDSALL: It's been done.

MR. ROSENBERG: What comments did they have?

MR. EDSALL: We have not heard back from them.

MR. ARGENIO: Quite frankly, Jeff, it's not really an intermunicipal issue.

MR. ROSENBERG: I only laugh because my experience with County Planning has not been positive.

MR. ARGENIO: Don't worry and so do we and also we have to have a mandatory public hearing. Mark, any reason we can't schedule that, put the notices out?

MR. EDSALL: No, as a matter of fact the original plans I had quite a number of comments on, I have to say that the applicant's engineer took the time to actually read them and this plan has responded to all the comments.

MR. ARGENIO: Langdan is pretty good.

MR. ROSENBERG: Can I ask one quick question? When you apply--

MR. ARGENIO: No.

MR. ROSENBERG: --is it possible, you know, when we look at the crossing is there going to be a way to get a light or a--

MR. EDSALL: No, I doubt that they'll install any pedestrian signals but it could be asked for.

MR. ROSENBERG: I mean from a personal point of view I think it's great that we put in a crossing but kind of silly without some sort of--

MR. EDSALL: If they can put a pedestal mounted pedestrian signal--

MR. ARGENIO: Mandelbaum is going to get somebody with some level of competence like, Mark, like John Collins Engineering.

MR. EDSALL: That's the right place.

MR. ARGENIO: To get whatever the greatest extent we

can get, be it the crossing or crossing and ped poles whatever we can get we want to get.

MR. SCHEIBLE: They don't move too fast.

MR. BABCOCK: This is an application by the Town of New Windsor.

MR. EDSALL: Yes.

MR. ARGENIO: We're a planning board and we're trying to plan and you're probably right, Jeff, there's nothing else we can really do tonight but we'll schedule the public hearing.

MR. ROSENBERG: Now or wait?

MR. BABCOCK: We'll be ready, as soon as you're ready you're on.

MR. ARGENIO: He's ready.

MR. EDSALL: Well, the notices have to be prepared.

MR. ARGENIO: Yes.

MR. BABCOCK: We have to advertise in the paper.

MR. ARGENIO: What's the action item, Mike, that starts the ball rolling on the public hearing, does Myra call Jeff's office or does Jeff call Myra's office?

MR. BABCOCK: Well, are you handling it?

MR. ROSENBERG: Diane.

MR. BABCOCK: She should call Myra on Monday and we'll set it up.

MR. ARGENIO: Tell her what to do, you have Myra tell

you what to do, you have to send notices out and we'll set it in motion and I can assure you that as soon as we have all the legal things that are done as soon as we hear from county we'll cover both those things in one meeting and we'll get you moving.

MR. ROSENBERG: Is county, though, if you don't hear from them it's deemed approved?

MR. EDSALL: Thirty days, I'll hear from them. Here's a copy of the comments.

MR. ARGENIO: Jeff, don't panic.

MR. ROSENBERG: No, I'm not panicking.

MR. BABCOCK: You're not changing anything.

MR. ARGENIO: They can be difficult but this is so simple.

MR. ROSENBERG: If you overrule county you need a super majority of a planning board, is that correct?

MR. ARGENIO: Yes.

MR. ROSENBERG: They understand with the signs they're going to have to go in for a sign permit approval and possibly in front of the planning board.

MR. BABCOCK: Well, I don't think we need the planning board, we need the zoning board but that would work through my office, we can get that started now so when they're ready to they can get their signs so whenever you're ready have them come and see me.

MR. ROSENBERG: Originally I told them that the size that was approved for Hollywood Video they could use up to cause that's our understanding. No?

MR. BABCOCK: No.

MR. ARGENIO: Why is that, Mark?

MR. BABCOCK: Well, the zoning board does the same thing as this board and the condition is is that they approve what's before them.

MR. ARGENIO: They review it individually.

MR. BABCOCK: It's not an issue, every one of your signs down there has received a variance on all of the things, Mavis usually has a standard, they don't sway from the standard much, the zoning board is pretty good with that.

MR. ROSENBERG: I know they did drop off the plans and a building permit application already to get started just so that--

MR. BABCOCK: That's good, we like that.

MR. ROSENBERG: Thank you very much, gentlemen.

MR. ARGENIO: I'm going to move the agenda around, I'd like to hear about the Victor Choe application then we'll hear Van Leeuwen.

DISCUSSION:

VICTOR_CHOE_(DAYS_INN_-_TREES)

Mr. Gregory Shaw of Shaw Engineering appeared before the board for this discussion item.

MR. SHAW: Victor Choe from Days Inn who I have done work for in the past approached me and came into my office said listen, I just left a workshop session with Mark Edsall and I want to do some clearing of some trees on my property. And so I got involved, I went and took a look at the site, I spoke to Mark and we thought it would be best for me to prepare a general sketch to submit to this board and come in and talk to you on an informal basis for the purpose of getting on the record exactly what Victor Choe would like to do with this property and what your board's decision is with any limitations. What we have is an area of diseased trees, brush and brush with second growth and what Victor would like to do is remove those trees, regrade the area, when I say regrade, I'm talking about taking some highs, putting in some lows, not talking about bringing in dirt or taking out dirt and planting a lawn. Okay, so what's driving the bus is the shape of these woods and the condition of them and with that I'd like to present some pictures to the board that I took about six weeks ago, they're really in two groupings, the first grouping here what you see if you can pass that around is the diseased area up in here and these pictures were taken by myself from the parking lot.

MR. SCHEIBLE: Were these taken in the winter or summer?

MR. SHAW: About six weeks ago.

MR. SCHEIBLE: I'm looking for leaves.

MR. SHAW: They're pine trees, you're not going to find them. And then the second group of pictures that I took was in this lower area and this is a relatively flat area, looks like it almost has some busted up blacktop or gravel on it and that's the second group of pictures and you'll be able to see that the growths are not substantial, it's really a secondary growth. So what he'd like to do very simply is just clean it up, he's not looking to develop it, he's not looking to create a parking area out of it, it's going to be lawn when it's finished, he wants to remove the trees, regrade it, not bring in material nor haul out material and then just topsoil and seed it.

MR. GALLAGHER: Hasn't he already removed some trees?

MR. SHAW: Not to my knowledge, no, I've walked all through there, I didn't see any trees moved. I have seen some trees bare and fallen over, those you'll see in the pictures.

MR. SCHLESINGER: Wasn't there something else with him on trees?

MR. BABCOCK: This is an application that's been ongoing, he came in, he talked to me about removing the trees.

MR. SCHLESINGER: I seem to remember this.

MR. BABCOCK: I told him he couldn't remove the trees so he came to the planning board and the planning board said whatever, go back to the workshop, then they felt that it was time to get somebody to help him represent this, sometimes he's not the easiest to understand and we asked him a few questions and I don't mean that with any disrespect to the man.

MR. SHAW: I understand.

MR. SCHEIBLE: That side of Union Avenue at one time was all pine trees, they were all put in there as part of a watershed at the time for Washington Lake.

MR. ARGENIO: Really?

MR. SCHEIBLE: Yes, but now I'm bringing that up because whatever happened to this watershed because now we're going to get so developed the watershed is completely gone but years ago that was a watershed all along that side of the road, you didn't have nothing there at all. Henry Van Leeuwen would remember that.

MR. SHAW: Now, what you have as neighbors is the self-storage over here, Wal-Mart wraps around over into this parcel.

MR. ARGENIO: Greg, point to the existing tree line please.

MR. SHAW: It's this area.

MR. ARGENIO: Point to the clearing limits that you--

MR. SHAW: We want to take them all out to the property line.

MR. ARGENIO: So he wants to clear this, he wants to strip the topsoil and he wants to do cut and fill?

MR. SHAW: Yes.

MR. ARGENIO: Mark, do we have a SWPPP issue here?

MR. EDSALL: Well, that was the next question. How many acres are being disturbed?

MR. SHAW: We're under an acre.

MR. EDSALL: They need an erosion control plan, that's

it, they get a permit if the planning board has no objection they'd get approval.

MR. SCHEIBLE: What are you going to replace them with?

MR. SHAW: No, just going to be a lawn area.

MR. ARGENIO: Greg, what are his long term plans?

MR. SHAW: I don't know, he didn't tell me any.

MR. ARGENIO: Okay.

MR. VAN LEEUWEN: I don't see any problem.

MR. ARGENIO: What else do you have?

MR. EDSALL: It's pretty straightforward but I thought it was so visible that the board would have an interest.

MR. ARGENIO: We need a SWPPP and an EEC, do we need--

MR. EDSALL: It's less than an acre, you need an erosion control plan, that's it, we'd do that through Mike's office, we have a procedure we have set up for reviewing grading operations that don't include a site plan development.

MR. SHAW: To the best of my knowledge, there's no application before this board.

MR. EDSALL: Correct.

MR. SHAW: So it's really something that would be done through Mike's office as opposed to be a condition of approval.

MR. EDSALL: Correct, it would be a matter of the planning board concurring that there's not an issue.

MR. ARGENIO: I don't know if you have an issue but I have a question about this grading business and my thought is it's being graded for a reason.

MR. BABCOCK: If you look at the road coming in you see the little triangle at the top of the hill?

MR. ARGENIO: I certainly do.

MR. BABCOCK: If you wanted to make that right-hand turn before the triangle that really doesn't exist, it's there, he's got some concrete blocks in the way, so you have to continue passed the triangle, make the right-hand turn and come back to that parking lot, what Greg just showed. My concern with the applicant was--

MR. ARGENIO: Maybe he's going to want to make an item 4 parking lot.

MR. BABCOCK: Well, there's houses on the other side of the property line so the cars that are going back that way the headlights are going to be shining towards those houses. That was my concern. And I understand he's got a commercial and they're residential, actually they're in a commercial.

MR. ARGENIO: And there's places all around town where different zones meet and the man has a right to do with his property what he will in a lawful fashion.

MR. BABCOCK: That's correct and quite honestly to give him a little bit of honesty I mean he could have went out there and probably cut these trees without even asking us then we'd be dealing with it then so at least he's asking us.

MR. ARGENIO: That's right.

MR. SHAW: These are all pictures of the parking lot.

MR. ARGENIO: Neil and Henry, do you have any thoughts on this? What are your initial thoughts?

MR. SCHEIBLE: Well, you just said that's Wal-Mart on the other side of Square Hill on the other side of Square Hill Road what's there again?

MR. BABCOCK: There's houses.

MR. SHAW: Well, I have two houses and you have one here and you have one in a corner and I'd like to, this house right here, Hank, welcome to the neighborhood.

MR. BABCOCK: They still don't like headlights.

MR. GALLAGHER: It's his property.

MR. ARGENIO: As Mike said it's good of him to come in at least we have some handle on it.

MR. SHAW: This is a self-storage right here and this is Wal-Mart so this has the two--

MR. SCHLESINGER: All the way up on top.

MR. SCHEIBLE: You got a picture of his house?

MR. SHAW: You wouldn't want one. When I rode passed there a couple times I didn't see anybody living there, I think it's for a reason.

MR. ARGENIO: My twins to the right I want your thoughts.

MR. SCHLESINGER: Well, dead trees are an eyesore, I'd like to see it cleaned up as long as there's no harm to any of the residents.

MR. SCHEIBLE: I know you're going to say replace it

with a little bit of vegetation, little, not just grass but a few trees in there.

MR. BABCOCK: Tall grass.

MR. ARGENIO: I heard from Mr. Van Leeuwen, hears what I think, my thoughts on this and I'm not, Greg you're asking for a little bit more than what I think we'd normally give based on the plan you're giving us so here's what I think. I believe that I'm going to poll the board formally and what I think we should do is give your client permission to do his bit, that is clear the trees and if he needs to do some miscellaneous grading and shaping up to clean the grade which may or may not include stripping of topsoil and then some shaping up he's going to require, he will have to meet the requirements of the law and Mark's requirements for silt fence or otherwise. He also will need to redistribute topsoil and to seed it to stabilize the area which I'm sure will be part of the plan or the discussion that you will have with Mark on the final disposition of this. And that grading is relegated to minor grading, minor grading and shaping, you know, no major cuts to build a retaining wall of any magnitude or a retaining wall at all or parking lots or things like that and if he wants to take it to the next level I have been here before, you know, we're certainly reasonable people all the members included come back and see us and we'll get you--

MR. SHAW: As he explained it to me the grading that he wants to do, cut out the high spots and fill in the low spots so I think we're on the same page.

MR. ARGENIO: Henry, I don't know about those trees, I think that we're going to reserve the right to direct your client if it becomes a big problem with the neighbors in the back I think we should reserve the right to request of your client to plant some cedars back there or something because as Mark or somebody

here, Mike Babcock pointed out he may end up using some of this as a gravel parking area or not at the later date and if he needs to put some cedars or some such thing back there we're going to give you a call.

MR. SHAW: Is that dealing just with the residential parcels?

MR. ARGENIO: Yes.

MR. SHAW: Not the--

MR. BABCOCK: Right.

MR. SHAW: Not the commercial?

MR. ARGENIO: You didn't set me up with that question, did you?

MR. SHAW: Not at all, but I did want it on the record.

MR. VAN LEEUWEN: When we approved Banta Realty I remember doing it we required the guy to put crown vetch because it's quite steep up in there.

MR. ARGENIO: And when I say seed it what I mean if there's any steep slopes it should have vetch on it or something, there's no--

MR. VAN LEEUWEN: I'm saying in those days.

MR. ARGENIO: You're going to need to comply with what Mark wants here. How do we need to do this? Do we need to have some kind of formal vote or is everybody in substantial agreement with what I just described?

MR. SCHLESINGER: Yes.

MR. SCHEIBLE: Yes.

MR. GALLAGHER: Yes.

MR. VAN LEEUWEN: Yes.

MR. EDSALL: I suggest you refer it to the building department.

MR. ARGENIO: And it's been referred to the building department who will work in conjunction with Mr. Edsall as far as erosion control and the scope of work and that should reflect what we discussed here tonight, end of story.

MR. SHAW: That's absolutely fine, I'm all set.

POUGHKEEPSIE_PROPERTIES_SITE_PLAN

MR. SHAW: Real fast on Poughkeepsie Properties they're changing, they're doing the architecture of the building, with that, they're changing the footprint of the building, specifically the canopies and I wanted to have the board look at a revised footprint based upon the architectural drawings before I present it for stamping. It hasn't been done but I'll be back.

MR. ARGENIO: We have to charge you because you spoke, just tell your client.

MR. SHAW: Okay.

VAN_LEEUWEN_SUBDIVISION_(08-05)

MR. ARGENIO: Let the record reflect Mr. Van Leeuwen has left the room at my request and he certainly has no problem with that. The next application is the Van Leeuwen lot line change.

MR. EDSALL: Subdivision.

MR. ARGENIO: Subdivision and that's a pretty simple thing and the lady here to represent this I believe is Mr. Van Leeuwen's daughter. What's your name?

MS. CRUZ: Ennika Cruz.

MR. ARGENIO: Tell us what you want to do in case somebody was absent the last meeting, just give us a little heads-up here.

MS. CRUZ: Okay, currently it has two dwellings on it on just over a 3 acre parcel and what we're proposing to do is subdivide one acre lot and leave the second, I think it's 2.11 acres. This building was built in the 1800s and this building was built in 1976 and we're just proposing to split it so my husband and I can purchase the second parcel which we already live in. There's not going to be any changes.

MR. BABCOCK: It's actually helping the zoning, Mr. Chairman, today's zoning you should only have one house on a lot.

MR. ARGENIO: And they have two?

MR. BABCOCK: That's correct.

MR. ARGENIO: Leave it to Mr. Van Leeuwen.

MR. BABCOCK: What I understand from Mr. Van Leeuwen this line was originally there at some point in time, I

don't know when this was years and years ago.

MS. CRUZ: Yes.

MR. BABCOCK: And for tax purposes they removed that line now they just want to put it back.

MR. ARGENIO: I'll accept a motion that we declare a negative dec on this application.

MR. GALLAGHER: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board declare negative dec on the Van Leeuwen minor subdivision. Roll call.

ROLL CALL

MR. SCHEIBLE	AYE
MR. SCHLESINGER	AYE
MR. GALLAGHER	AYE
MR. ARGENIO	AYE

MR. EDSALL: Mr. Chairman, I assume they're going to have the formal ones prepared for you to sign, you're authorizing them to be prepared and you to sign.

MR. ARGENIO: I'm authorizing, we are, not me, we're authorizing.

MR. EDSALL: So we'll have Mr. Cordisco prepare them for your signature.

MR. ARGENIO: I want to ask everybody about the public hearing, I've been out here so I want to just go around about the public hearing but I want to poll the board on the public hearing and necessity for it or not but I want to also reveal to the members that I have personal

knowledge of this parcel and directly across the street is Mr. Van Leeuwen's residence and in the back behind the homes and ma'am you can correct me if I misspeak, I was there a while back and it's all woods, is that correct?

MR. BABCOCK: Actually, this is where he lives right now.

MS. CRUZ: On the left side of their house is all woods.

MR. ARGENIO: I misspoke but across the street is Mr. Van Leeuwen's new house.

MS. CRUZ: New house, yes.

MR. ARGENIO: Got it, no problem.

MR. SCHEIBLE: Does the outhouse stay?

MS. CRUZ: It's still there.

MR. ARGENIO: What do you want to do with this? Somebody chime in here.

MR. SCHLESINGER: In reference to?

MR. ARGENIO: Public hearing.

MR. EDSALL: I assume for the record that there was a public hearing at the ZBA?

MR. ARGENIO: There certainly was.

MR. EDSALL: And was there any comment Mike to your recollection?

MR. BABCOCK: There was a few people in the audience that lived on McClain Drive what I remember of it they

didn't understand why they were subdividing, they thought they were going to build more houses. Once they realized that it was existing and they're just putting a lot line in, there was really no comments.

MR. SCHLESINGER: Nothing's going to change.

MR. SCHEIBLE: I agree.

MR. GALLAGHER: We're cleaning up the plan.

MR. ARGENIO: I feel the same way. Let's not belabor. Any formalities Mark that I've missed?

MR. EDSALL: You need to take a motion on that.

MR. ARGENIO: I'll take a motion for final.

MR. SCHLESINGER: No.

MR. EDSALL: No, the motion on waiving the hearing.

MR. ARGENIO: I'll accept a motion to waive both preliminary and final public hearing.

MR. SCHLESINGER: So moved.

MR. SCHEIBLE: Second it.

ROLL CALL

MR. SCHEIBLE AYE

MR. SCHLESINGER AYE

MR. GALLAGHER AYE

MR. ARGENIO AYE

MR. ARGENIO: Motion for final.

MR. SCHLESINGER: Motion for final approval.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board offer final approval to the Van Leeuwen minor subdivision on Beattie Road. Roll call.

ROLL CALL

MR. SCHEIBLE	AYE
MR. SCHLESINGER	AYE
MR. GALLAGHER	AYE
MR. ARGENIO	AYE

(Whereupon, Mr. Van Leeuwen entered the room.)

DISCUSSION:

MR. SCHLESINGER: The Sloan House.

MR. ARGENIO: Henry's going to talk about that.

MR. BABCOCK: Can I talk about it a little too?

MR. SCHEIBLE: I received a phone call from Cy.

MR. ARGENIO: Before Henry goes on about it, Michael Babcock probably has official information to share with us. Tell us about the Sloan house, Michael Babcock.

MR. BABCOCK: He purchased it, he purchased it in January for \$300,000 and he owns it. Cy Capowitz comes to my office every day, sometimes three times a day, he follows me around the parking lot with his car, he wants to know when he's going to correct the drainage.

MR. ARGENIO: Wait a second, stop. That's taken care of, he removed the culverts, he did what he was obligated to do. I'm not here to defend Mr. Helmer but that's been done and part of the permanent record. Michael?

MR. BABCOCK: We talked to I guess his daughter or secretary, somebody there.

MR. ARGENIO: The polite one.

MR. BABCOCK: He's got a for rent sign on the house.

MR. VAN LEEUWEN: Yes, he does, I just saw it coming in.

MR. BABCOCK: And the understanding that I got through my office from them is that he doesn't have a proposal for a subdivision, he's going to rent the house out, he's fully aware that the town wants him to put a road

there which he wants as much as the town but until he has a purpose to put the road there he's not going to do it, when he comes in for a subdivision he's going to be required to do it from this board and he knows that.

MR. ARGENIO: We'll save the best for last. Henry Scheible, what do you have in addition to what Mike said relative to this issue or any other issue?

MR. SCHEIBLE: No, that was my only concern was all of a sudden I seen the for rent sign up. We had been discussing all this time to put the road through there and that sort of that's such a problem that intersection right now moving trucks especially all the truck traffic that's going in and out of that area and I would like to not see anything built until everything is corrected.

MR. SCHLESINGER: I have nothing else to say, just wanted to get an understanding what's going on.

MR. GALLAGHER: Nothing.

MR. ARGENIO: We saved the best for last, my esteemed vice chairman.

MR. VAN LEEUWEN: Let me say something to you guys, this is not the first time he's lied to us, he looks you right straight in the eye and he lies like a son of a bitch and he did it again, I told you guys he was going to do that.

MR. SCHLESINGER: What way did he lie?

MR. ARGENIO: Stop, let Henry finish.

MR. VAN LEEUWEN: He said he would buy the house, he already owned the house before he came to us, that house was his in January, that house was his.

MR. SCHEIBLE: When did he come to us?

MR. ARGENIO: I don't want to debate. Henry, go ahead.

MR. VAN LEEUWEN: That's beside the point really, okay. Let me tell you something, he's done it over, over, over, over years ago, Hank was here, I made a motion, I don't know if Hank seconded it or not that we would no longer subdivide anything until the roads were taken care of, the roads have not been taken care of, then he come in and he says look, I'll buy that house if I can and we'll make an entrance onto 207, isn't that what he said?

MR. SCHLESINGER: Yes.

MR. VAN LEEUWEN: So he bought the house. Now let me say something to you, he bought the house, what's he doing with the house? He fixed it up and he's going to rent it.

MR. SCHLESINGER: That's correct.

MR. VAN LEEUWEN: So what did he do, he lied again. Let me tell you something, he doesn't give a damn about us sitting here, he don't care, he does exactly what he wants to do and he will do it again and he will do it again as long as we let him get away with it. And I will tell you I was against it last time and I'm against him this time and I want to make a motion tonight, I hope a get a second that there will be no further subdivision on that property until he complies with everything. Word of mouth plus what's already on the books.

MR. ARGENIO: It's my turn. I'm going to say a couple things, I'm going to be very frank and I'm going to be very blunt. I think a lot of what Henry said is very accurate, some of it is not so accurate. Here are my thoughts. Henry, we don't need a motion because we

already have it on the record, Mark, correct me if I misspeak that for there to be further development to occur on that parcel this link is going to occur at the light. Is that correct, Mark?

MR. EDSALL: Yeah, I don't think that--

MR. ARGENIO: You had your turn, let me finish.

MR. EDSALL: You're absolutely right the way we structured it because obviously Henry and I have lived through a lot of his gyrations where we had to struggle to get anything done. When we structured the approvals on the medical building the agreement was that when he steps foot in here for the next approval on that entire park with that application will be the design for the road because you're not going to take any action until that road is constructed with the next application.

MR. ARGENIO: Nothing to talk about until that's taken care of.

MR. EDSALL: I think that he's sitting on a very valuable property and wanted economics to control if he has a user to come in to use one of the lots he now is going to have to step up to the plate and build the road, that's how the approval was structured. Now keep in mind Mike and I kept his feet to the fire to get the pipes removed.

MR. ARGENIO: And that got done.

MR. EDSALL: I'm sure you'll hold his feet to the fire when he comes back for the next application.

MR. BABCOCK: He's going to have to do it.

MR. ARGENIO: Let me speak for a minute. This is this board now and this is our administration here of this board so I can only speak to what we're doing and I'm

trying my darndest to make sure that we're moving it in the right direction and only by knowing history can we make good decisions for the future, that's why I say I take heed to your comments, Henry Van Leewuen, even now the next thing is relative to him renting the property, I'm not here to defend Bill Helmer but I'm going to tell you he acquired the property at some point in time, whether it was at our direction or not at our direction, I really don't care. The net affect is he has the property now he's going to rent it, let him rent it, let him renovate it, I really don't care quite frankly cause step one of our master plan this group, this administrative body was to have him get control of that asset and he has control of it, okay, if he wants to rent it between now and the time he does his next subdivision development, parcel, building or otherwise I really don't care. But it's clear and it's on the record there will be no subdivision, development or whatever else on there unless this link is in our immediate future. So the steps have been taken to move that forward and we're a planning board and we have limited power to direct and compel people to do things, we have used all the powers at our disposal to try to compel him to do what he needs to do and let's move forward.

MR. SCHEIBLE: Well said. I have one question, Mike, you've got to answer this since he's got a for rent sign out there. What's the limitations on the rental right now? What can he rent it out as?

MR. BABCOCK: A single-family house.

MR. SCHEIBLE: That's all?

MR. BABCOCK: If he wants to put a business he's got to come before this board. Now keep one thing in mind too and when Jerry's saying before he does anything that's Bill Helmer, the last project that was in here that Henry spoke about and said that we shouldn't be

approving was Poughkeepsie Properties, has nothing to do with Bill Helmer, it would be the same thing as Cy Capowitz wanted to come in and put on an addition, we said you can't do that until Bill Helmer builds the road.

MR. ARGENIO: One has nothing to do with the other.

MR. SCHLESINGER: I remember distinctly when we had the conversations how we all agreed that was a great idea if whether he owned it or didn't own it, if he could buy the house and in turn build a roadway in there and we all thought it was a great idea, we left here saying that's great, whether it's 10, 15, 20 years down the road I left here saying it was a great idea. But I also left here without knowing what legality he had or what limited legality he had even in forcing him to do it, his word is his word.

MR. ARGENIO: Neil, his word has nothing to do with this.

MR. SCHLESINGER: What's on paper.

MR. ARGENIO: We have the authority as the planning board to compel him to do that based on traffic, based on our assessment of whatever he proposes. Mark, is that correct or not?

MR. EDSALL: No, it was structured in such a way that he committed to it, it's part of the record and furthermore he was cautioned that because there are significant traffic problems if he failed to undertake the improvement as part of the next application the board very likely would give a pos dec to the application and he would go through a very rigorous traffic study and it would probably cost him more than just building a road.

MR. ARGENIO: As I said, we have the authority as the

planning board and one of the things we can do is pos dec a project under SEQRA and we can pos dec it because of the traffic impact. Henry, you had something else to add?

MR. VAN LEEUWEN: Let me tell you something fellas, the next time he comes to this board meeting he will have another song and another dance and he will dance right passed you, he did it last time, believe me.

MR. ARGENIO: He didn't do it last time, not with this administration.

MR. VAN LEEUWEN: Yes, he did.

MR. ARGENIO: No, he didn't because he now owns the property and we're postured to get that link put in which is light years ahead of where we were, light years ahead of where we were eight years ago, seven years ago, six years ago, that's not meant to impune previous boards, it's meant to say we're doing what we can do. Henry, fact of the matter is you may be proven to be right at some point in time but you know what we can do right now is learn from the past and make the best decisions that we can moving forward. And that's my final thought on the issue.

MR. EDSALL: I can tell you that I contacted Rider who was the attorney representing the estate and at the time he was here for the Sarkassian application the estate had not sold the property, the estate still had the property and Dave Rider gave me the woes of having 14 people involved in the estate. He said that this is the biggest cluster he's dealt with for a long time, so that he was hopeful that it would be accomplished within a year and apparently it did get taken care of.

MR. BABCOCK: I've got to tell you something Hank, Bill Helmer has done nothing for me, I agree with what you're saying, but one thing that I always keep in mind

is that every time he builds a commercial building it's something for the town, so one thing you've got to remember is that what he's coming in here and offering, not offering but building a commercial building that's something we want, you know, so we don't want to--

MR. VAN LEEUWEN: We also wanted roads fixed.

MR. BABCOCK: The other guy in the medical building, he was ready to choke himself because he thought that you guys were saying it's over, he's ready to go.

MR. ARGENIO: Motion to adjourn?

MR. SCHLESINGER: So moved.

MR. VAN LEEUWEN: Second it.

ROLL CALL

MR. SCHEIBLE	AYE
MR. SCHLESINGER	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

Respectfully Submitted By:

Frances Roth
Stenographer

